

ORIGINAL



0000074399

MEMORANDUM

TO: Docket Control

FROM: Ernest G. Johnson  
Director  
Utilities Division

DATE: June 29, 2007

RE: STAFF REPORT FOR DIVERSIFIED WATER UTILITIES, INC. SECOND  
AMENDED APPLICATION FOR AN EXTENSION OF ITS CERTIFICATE  
OF CONVENIENCE AND NECESSITY DOCKET NO. W-02859A-04-0844

Attached is the Staff Report for the above referenced application. Staff recommends approval of the application with conditions.

EGJ:LAJ:red

Originator: Linda Jaress

Attachment: Original and Thirteen Copies

Arizona Corporation Commission

DOCKETED

JUN 29 2007

DOCKETED BY	
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2007 JUN 29 P 12:18  
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Service List for: Diversified Water Utilities, Inc.  
Docket No. W-02859A-04-0844

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STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION

DIVERSIFIED WATER UTILITIES, INC.

DOCKET NO. W-02859A-04-0844

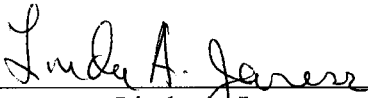
SECOND AMENDED APPLICATION FOR AN EXTENSION OF A  
CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE  
WATER IN PINAL COUNTY, ARIZONA

June 29, 2007

## STAFF ACKNOWLEDGEMENT

The Staff Report for Diversified Water Company (Docket No. W-02859A-04-0844) was prepared by the Staff members listed below. Linda Jaress prepared the Staff Report. Marlin Scott, Jr. prepared the Engineering Report.

Contributing Staff:

  
\_\_\_\_\_  
Linda A. Jaress  
Executive Consultant III

  
\_\_\_\_\_  
Marlin Scott, Jr.  
Utilities Engineer

**EXECUTIVE SUMMARY  
DIVERSIFIED WATER COMPANY  
DOCKET NO. W-04316A-04-0844**

On March 27, 2007, Diversified Water Company filed a Second Amended Application for approval to extend its Certificate of Convenience and Necessity ("CC&N") into one and one-half sections of land in Pinal County near the town of Queen Creek. The Company expects to serve approximately 2,100 customers in the extension area by the end of five years. The Company is proposing to construct an independent water system in the requested extension area costing an estimated \$5.6 million through the use of advances in aid of construction and hook-up fees.

Staff concludes that the Company's proposed water system will have adequate well production and storage capacity to serve the proposed CC&N extension area within a conventional five year planning period and the Company can reasonably be expected to develop additional well production and storage capacities as required in the future. Staff also concludes that the estimated \$5.6 million costs of the plant to serve the extension area are reasonable.

Staff believes that based upon the request for service from Wolfkin Farms, L.L.C. and the letter from the Land Department, there is a need for service. Diversified is in compliance with the relevant public agencies and has experience operating a water utility. Staff believes that Diversified is fit and proper to provide service to the proposed extension area. Staff recommends approval.

Staff recommends that the Company file with Docket Control, as a compliance item in this docket within two years of the effective date of an order in this proceeding, a copy of the Approval to Construct for the water facilities needed to serve the first development in requested area.

Staff also recommends that Diversified file with Docket Control, as a compliance item in this docket within two years of the effective date of an order in this proceeding, a copy of the developer's Certificate of Assured Water Supply for the first subdivision.

Finally, Staff recommends that the Commission's Decision granting this extension be considered null and void after due process should Diversified fail to meet conditions listed above within the time specified.

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## **History**

On October 2, 2000, Diversified Water Utilities, Inc. ("Diversified") filed an application requesting approval to extend its Certificate of Convenience and Necessity ("CC&N") into areas in Pinal County referred to as parcels 2, 14, 15, 16, 17, 18 and 24. The application was consolidated with the applications of Johnson Utilities, L.L.C., H2O Water Company and Queen Creek Water Company due to competing requests for some of the same parcels.

Decision No. 63960, dated September 4, 2001, granted Diversified approval to extend its CC&N only into Parcel 24. The Decision ordered that Parcel 2 not be awarded to any applicant "because of uncertainty with respect to Skyline District and potential litigation." Since the Decision, the Skyline District has been dissolved.

The Decision "...conditionally approved..." the extension "...subject to the respective utilities meeting the applications conditions as set forth in Findings of Facts...and Conclusions of Law." The Decision further concluded that "...if Diversified fails to meet any of the aforementioned conditions within the time specified, the Certificate authorized hereinafter for the respective parcel be considered null and void without further order of the Commission."

On February 15, 2005, Staff sent Diversified a letter indicating that Diversified had not complied with Decision No. 63960, and therefore its CC&N extension into Parcel 24 was void. On February 22, 2005, Diversified responded with a letter indicating agreement that the CC&N extension approved in Decision No. 63960 was "automatically rendered of no force or effect." Therefore, the Utilities Division Compliance Section indicates Diversified is in compliance with Commission decisions.

## **Application at Issue**

On November 24, 2004, Diversified filed an application to extend its CC&N into Sections 13, 14, 15 and 23 and a portion of Section 16, all Sections previously denied Diversified in Decision No. 63960. On December 3, 2004, Johnson Utilities, L.L.C. filed an application to extend its CC&N into areas overlapping the areas included in Diversified's November 24<sup>th</sup> application. By June 24, 2005, Johnson Utilities, L.L.C. and Diversified came to an agreement regarding potential service territory. Pursuant to that agreement, on November 30, 2005, Diversified filed an Amended Application excluding Section 23 from its requested extension area.

Finally, on March 27, 2007, Diversified filed a Second Amended Application reducing the area of expansion to only the area for which the landowner had submitted a written request for inclusion and to serve the one-half section of State Land. Thus the Company's current and final application requests an extension of its CC&N only into the entire Section 13 and the eastern one-half of Section 14 of Township 3 South, Range 8 East in Pinal County. (See Exhibit 1 for a map and legal description of the extension area requested.) This area is the former parcel 2 which was denied Diversified in Decision No. 63960.

### **Requests for Service**

Diversified provided a letter from Wolfkin Farms, L.L.C. requesting service to a 640-acre area (Section 13) which it plans to develop into 2,100 lots in multiple phases. The area is contiguous to Diversified's current service territory. The eastern half of Section 14 is Arizona State Trust land. Although there is no request for service from the Arizona State Land Department ("Land Department"), the Land Department sent Diversified a letter dated April 26, 2005, saying:

"...it has been determined it is in the best interest of the State Trust land to be included in a certificated area for water delivery. However, we wish to remain neutral as to who the water provider should be for this land, so we leave the decision on the holder of the certificate area to the ACC."

### **The Existing and Proposed Facilities**

The Company's existing water system consists of two wells, three storage tanks, and a distribution system serving 883 service connections as of January 2007. This existing water system is approximately one mile from the requested extension area and could be interconnected at some point in the future. Further description of the current and proposed systems is found in Staff's Engineering Report attached as Exhibit 2.

The Company is proposing to construct an independent water system in the requested extension area costing an estimated \$5.6 million through the use of advances in aid of construction and hook-up fees. Diversified expects to serve 200 customers in the first year and 1,300 customers by the fifth year by adding plant including two wells and a storage tank. Staff concludes that the Company's proposed water system will have adequate well production and storage capacity to serve the proposed CC&N extension area within a conventional five year planning period and can reasonably be expected to develop additional well production and storage capacities as required in the future. Staff also concludes that the estimated costs of the plant are reasonable.

### **Arizona Department of Environmental Quality**

According to an Arizona Department of Environmental Quality ("ADEQ") compliance inspection report dated May 25, 2007, the Company's water system has no deficiencies and is in compliance with the Safe Drinking Water Rules.

For its existing water system, the Company indicated its arsenic levels from the two wells are 2 parts per billion ("ppb") and 3.3 ppb. Based on these arsenic levels, the Company is in compliance with the new arsenic standard of 10 ppb. The requested area will be served by constructing new well sources the arsenic levels of which are currently not known. However, the Company has represented that if arsenic treatment is required, the required plant will be funded by the developer.



Staff recommends that Diversified file with Docket Control, as a compliance item in this docket, within two years of the effective date of an order in this proceeding, a copy of the Certificate of Approval to Construct for the water facilities needed to serve the requested area.

### **Arizona Department of Water Resources**

The Company is located within the Phoenix Active Management Area. It is in compliance with the Arizona Department of Water Resources reporting and conservation requirements.

The Company has secured a "Physical Availability Demonstration" for its existing service area. Staff recommends that the Company file with Docket Control, as a compliance item in this docket within two years of the effective date of an order in this proceeding, a copy of the developer's Certificate of Assured Water Supply for the first subdivision.

### **Conclusions and Recommendations**

Staff believes that based upon the request for service from Wolfkin Farms, L.L.C. and the letter from the Land Department, that there is a need for service. Diversified is in compliance with the relevant public agencies. Staff believes that Diversified is fit and proper to provide service to the proposed extension area. Staff recommends approval.

Staff recommends that the Company file with Docket Control, as a compliance item in this docket within two years of the effective date of an order in this proceeding, a copy of the Approval to Construct for the water facilities needed to serve the first development in requested area.

Staff also recommends that Diversified file with Docket Control, as a compliance item in this docket within two years of the effective date of an order in this proceeding, a copy of the developer's Certificate of Assured Water Supply for the first subdivision.

Finally, Staff recommends that the Commission's Decision granting this extension be considered null and void after due process should Diversified fail to meet conditions listed above within the time specified.

**MEMORANDUM**

RECEIVED

TO: Linda Jaress  
Executive Consultant III  
Utilities Division

2007 APR 11 P 2: 01

FROM: Barb Wells  
Information Technology Specialist  
Utilities Division

AZ CORP COMMISSION  
DOCUMENT CONTROL

THRU: Del Smith  
Engineering Supervisor  
Utilities Division

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APR 11 2007

AZ CORP COMMISSION  
Director Utilities

DATE: April 11, 2007

RE: **DIVERSIFIED WATER UTILITIES, INC. (DOCKET NO. W-02859A-04-0844)**  
**THIRD AMENDED LEGAL DESCRIPTION**

Diversified has filed a second amended legal description which is attached and should be used in place of all previous descriptions submitted to docket control for this application.

On December 14, 2004, I issued a memo using an amended legal description; on December 21, 2005, I issued a memo using a second amended legal description; therefore, I am calling this the third amended legal description, even though it was filed as a second amendment.

Also attached is a copy of the map for your files.

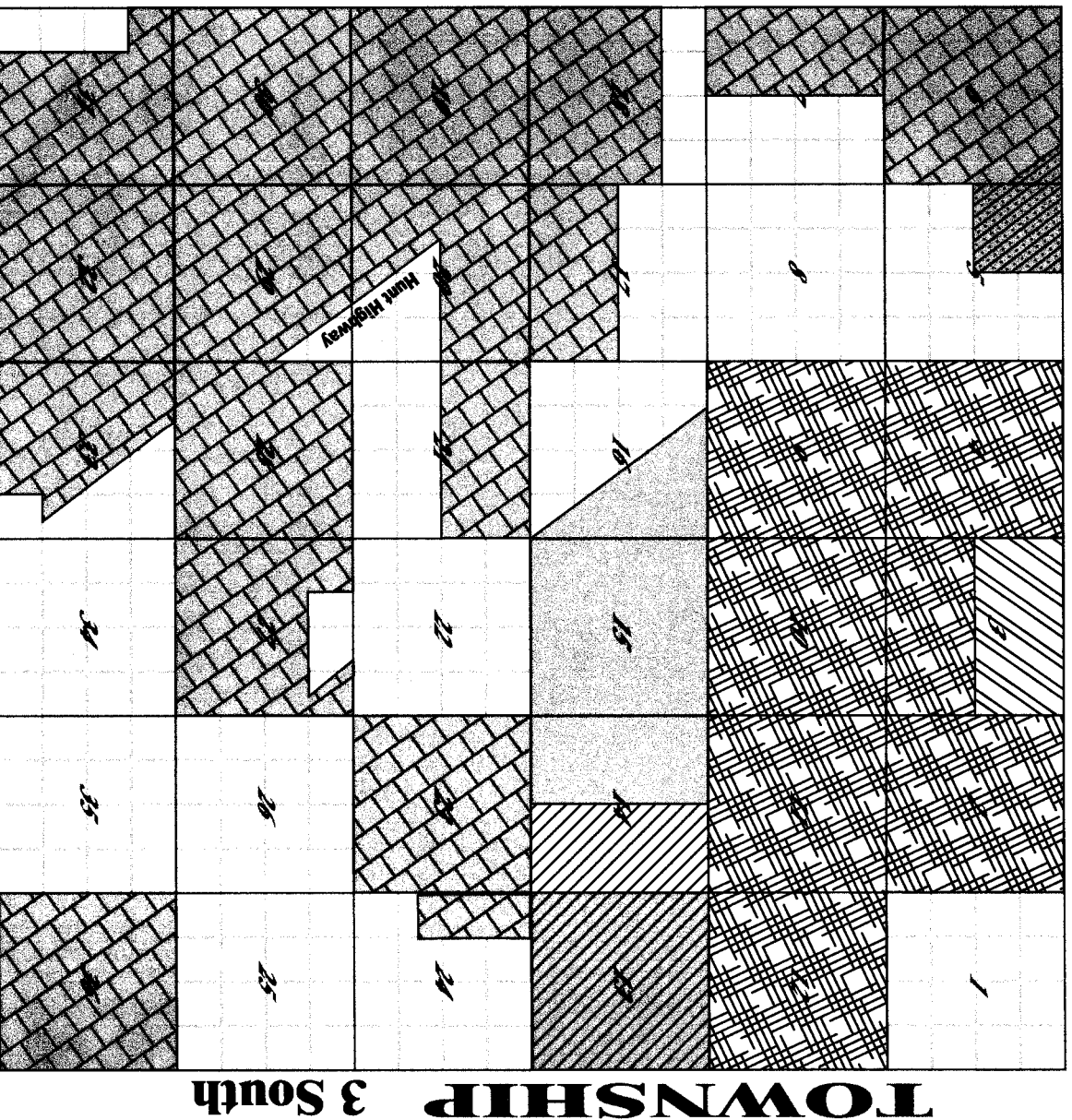
:bsw

Attachments

cc: Docket Control  
Mr. William Sullivan  
Ms. Deb Person (Hand Carried)  
File

# COUNTY: Pinal

## RANGE 8 East



W-2859 (3)

Diversified Water Utilities, Inc.



W-2234 (2)

H<sub>2</sub>O, Inc.



WS-2987 (6)

Johnson Utilities Company



W-2425 (2)

Sun Valley Farms Unit VI Water Company



Diversified Water Utilities, Inc.

Docket No. W-02859A-04-0844

Second Amended Application for Extension



Sewer

Wells

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MIKE GLEASON, CHAIRMAN  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
KRISTIN K. MAYES  
GARY PIERCE

2007 MAR 27 P 2:43

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MAR 27 2007

AZ CORP COMM  
Director Utilities

IN THE MATTER OF DIVERSIFIED  
WATER UTILITIES, INC. TO EXPAND ITS  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY

DOCKET NO.: W-02859A-04-0844

DIVERSIFIED WATER UTILITIES, INC.  
SECOND AMENDED APPLICATION

Diversified Water Utilities, Inc., ("Diversified"), by and through its attorneys, in accordance with its Statement of Intent filed November 15, 2006 and the Procedural Order dated December 28, 2006, hereby files its Second Amended Application to expand its Certificate of Convenience and Necessity. This Second Amended Application reduces the area of expansion to those areas where the landowner has made a written request for inclusion. In particular, Diversified, by this Second Amended Application, requests its Certificate of Convenience and Necessity be expanded to encompass Section 13, Township 3 South, Range 8 East; and the Eastern One-half of Section 14, Township 3 South, Range 8 East, of the Gila and Salt Rivers Base and Meridian in Pinal County, Arizona (the "Amended Expansion Area"). This Second Amended Application is supported by the following:


1. Diversified is an Arizona corporation, in good standing as reflected by the Certificate of Good Standing attached hereto as **Exhibit A**.

2. Diversified is authorized by the Arizona Corporation Commission (the "Commission") to provide domestic water service in nine sections of Pinal County, Arizona and presently serves approximately 927 service connections. Its current water production

## MEMORANDUM

DATE: June 6, 2007

TO: Linda Jaress  
Executive Consultant III

FROM: Marlin Scott, Jr.   
Utilities Engineer

RE: Diversified Water Utilities, Inc.  
Docket No. W-02859A-04-0844 (CC&N Extension – Second Amended Application)

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### **Introduction**

Diversified Water Utilities, Inc ("Company") has applied to extend its Certificate of Convenience and Necessity ("CC&N") for its water system. The requested extension area will add 1-1/2 square-miles to the Company's existing nine square-miles of certificated area to provide service to two parcels; 1) a proposed development known as the Belle Vista Section 13 Development and 2) land held by the Arizona State Land Department. The Company serves a community 10 miles south of Apache Junction in Pinal County.

### **Capacity**

#### Existing Water System

The Company's existing water system has two wells (one at 200 gallons per minute ("GPM") and another at 1,200 GPM), three storage tanks (total capacity of 1.22 million gallons), and distribution system serving 883 service connections as of January 2007. This existing water system is approximately one mile from the requested extension area and could be interconnected at some point in the future.

#### Proposed New Water System

The Company is proposing to construct a new independent water system in the requested extension area through the use of advances in aid of construction and hook-up fees. According to the Company's Preliminary Service Report prepared by Bethke Engineering, LLC, the Company is projecting to serve 200 customers in the first year and 1,300 customers by the fifth year with the following proposed plant facilities:

Table 1. Proposed Plant Facilities

Plant	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Wells & Springs						
2 @ 500 gpm	1,500,000					1,500,000
Booster Pumps	923,333		173,333			1,096,666
Storage Tank						
1.0 MG	1,000,000					1,000,000
Water Mains	255,000	286,875	286,875	414,375	414,375	1,657,500
Services						
200 each	15,000					
225 each		16,875				
225 each			16,875			
325 each				24,375		
325 each					24,375	97,500
Meters						
200 each	15,000					
225 each		16,875				
225 each			16,875			
325 each				24,375		
325 each					24,375	97,500
Hydrants	15,000	16,875	16,875	24,375	24,375	97,500
Totals:	\$3,723,333	\$337,500	\$510,833	\$487,500	\$487,500	\$5,546,666

#### Capacity Conclusions

Staff concludes that the Company's proposed water system will have adequate well production and storage capacities to serve the proposed CC&N extension area within a conventional five year planning period and can reasonably be expected to develop additional well production and storage capacities as required in the future.

Staff concludes that the proposed water plant facilities for the proposed development and its cost estimate totaling \$5,546,666 appear reasonable. However, no "used and useful" determination of the proposed water plant facilities was made and no particular treatment should be inferred for rate making or rate base purposes.

#### **Arizona Department of Environmental Quality ("ADEQ") Compliance**

##### Compliance Status

According to an ADEQ compliance inspection report, dated May 25, 2007, the Company's water system, PWS #11-043, has no deficiencies and ADEQ has determined that this water system is in compliance with the Safe Drinking Water Rules.

### Certificate of Approval to Construct

The ADEQ Certificate of Approval to Construct ("ATC") for water facilities needed to serve the requested area has not been submitted by the Company. Staff recommends that the Company file with Docket Control, as a compliance item in this docket within two years of the effective date of an order in this proceeding, a copy of the ATC for the water facilities needed to serve the first development in requested area.

### Arsenic

For its existing water system, the Company indicated its arsenic levels from the two wells are 2 parts per billion ("ppb") and 3.3 ppb. Based on these arsenic levels, the Company is in compliance with the new arsenic standard of 10 ppb.

The requested area will be served by constructing new well sources and, at this time, the arsenic levels in the new wells are not known. Arsenic levels in this region have shown levels of 3.3 ppb for Sun Valley Farms Unit VI Water Company, a range from 2 to 3 ppb for H2O, Inc., and a range from 2 to 7 ppb for Johnson Utilities Company which are all below 10 ppb. However, according to the Company, if arsenic treatment is required, the developer will be responsible for funding the required treatment.

### **Arizona Department of Water Resources ("ADWR") Compliance**

#### Compliance Status

The Company is located within the Phoenix Active Management Area ("AMA") and is in compliance with ADWR's reporting and conservation requirements.

#### Certificate of Assured Water Supply

According to the Company, the Company has secured a "Physical Availability Demonstration" for its existing service area. Staff recommends that the Company file with Docket Control, as a compliance item in this docket within two years of the effective date of an order in this proceeding, a copy of the developer's Certificate of Assured Water Supply for the first subdivision in the requested area.

### **Arizona Corporation Commission Compliance**

A check with the Utilities Division Compliance Section showed no delinquent compliance items for the Company.

### **Curtailment Tariff**

The Company has an approved curtailment tariff that became effective on October 22, 2004.

## **Backflow Prevention Tariff**

The Company has an approved backflow prevention tariff that became effective on March 29, 1997.

### **Summary**

#### Conclusions

- A. Staff concludes that the Company's proposed water system will have adequate well production and storage capacities to serve the proposed CC&N extension area within a conventional five year planning period and can reasonably be expected to develop additional well production and storage capacities as required in the future.
- B. Staff concludes that the proposed water plant facilities for the proposed development and its cost estimate totaling \$5,546,666 appear reasonable. However, no "used and useful" determination of the proposed water plant facilities was made and no particular treatment should be inferred for rate making or rate base purposes.
- C. According to an ADEQ compliance inspection report, dated May 25, 2007, the Company's water system, PWS #11-043, has no deficiencies and ADEQ has determined that this water system is in compliance with the Safe Drinking Water Rules.
- D. For its existing water system, the Company indicated its arsenic levels from the two wells are 2 ppb and 3.3 ppb. Based on these arsenic levels, the Company is in compliance with the new arsenic standard of 10 ppb.

The requested area will be served by constructing new well sources and, at this time, the arsenic levels in the new wells are not known. Arsenic levels in this region have shown levels of 3.3 ppb for Sun Valley Farms Unit VI Water Company, a range from 2 to 3 ppb for H2O, Inc., and a range from 2 to 7 ppb for Johnson Utilities Company which are all below 10 ppb. However, according to the Company, if arsenic treatment is required, the developer will be responsible for funding the required treatment.

- E. The Company is located within the Phoenix AMA and is in compliance with ADWR's reporting and conservation requirements.
- F. A check with the Utilities Division Compliance Section showed no delinquent compliance items for the Company.



- G. The Company has an approved curtailment tariff that became effective on October 22, 2004.
- H. The Company has an approved backflow prevention tariff that became effective on March 29, 1997.

Recommendations

- 1. Staff recommends that the Company file with Docket Control, as a compliance item in this docket within two years of the effective date of an order in this proceeding, a copy of the ATC for the water facilities needed to serve the first development in requested area.
- 2. Staff recommends that the Company file with Docket Control, as a compliance item in this docket within two years of the effective date of an order in this proceeding, a copy of the developer's Certificate of Assured Water Supply for the first subdivision.